

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

HAROLD L. MORRIS JR.,

Plaintiff,

v.

No. 10-cv-0050 LH/SMV

SOUTHWEST COUNSELING CENTER, INC., et al

Defendants.

**ORDER GRANTING DEFENDANT RODGERS' MOTION
TO STRIKE PLAINTIFF'S SURREPLY TO MARTINEZ REPORT**

THIS MATTER is before the Court on Defendant Rodgers' Motion to Strike Plaintiff's Surreply to Martinez Report . . . [Doc. 69], filed on October 26, 2012. Plaintiff did not file a response to the Motion. The Court has considered the Motion and the relevant law. For the reasons set forth below, the Court **FINDS** that the Motion is well-taken and should be **GRANTED**.

Plaintiff filed his Prisoner's Civil Rights Complaint on January 20, 2010. [Doc. 1]. Defendant Rodgers was ordered to file a *Martinez* Report on September 13, 2011. [Doc. 30]. Defendant Rodgers filed his *Martinez* Report on October 7, 2011. [Doc. 32]. He requested that the *Martinez* Report be considered as a motion for summary judgment. *Id.* at 1. Plaintiff submitted a letter to the District Judge on November 29, 2011. [Doc. 35]. Since this was the only document filed by Plaintiff within the time period allowed for a response, and because it appears to address Rodgers' *Martinez* Report, the Court will treat the letter as Plaintiff's

Response to the *Martinez* Report. Defendant Rodgers filed his Reply [Doc. 36] and a Notice of Completion of Briefing [Doc. 37] on November 14, 2011.

Nearly 11 months later, on October 18, 2012, Plaintiff filed an untitled document that appears to supplement the arguments he raised in his Response. *See* [Doc. 65]. Essentially, the document is a surreply filed without leave of Court. *See* D.N.M.LR-Civ. 7.4(b) (requiring leave of the Court to file a surreply). Although Plaintiff is proceeding pro se, he is required to follow the same rules of procedure that govern other litigants. *See Murray v. City of Tahlequah, Okla.*, 312 F.3d 1196, 1199 n.3 (10th Cir. 2002).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant Rodgers' Motion to Strike Plaintiff's Surreply to Martinez Report . . . [Doc. 69] is **GRANTED**, and Plaintiff's Surreply to Defendant Rodgers' *Martinez* Report [Doc. 65] is **STRICKEN** as filed in violation of D.N.M.LR-Civ. 7.4(a) and (b).

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge